

**RALPH O. BLOEMERS,**  
**OSB # 984172**  
[ralph@crag.org](mailto:ralph@crag.org) - (503) 525-2727  
Crag Law Center  
3141 E. Burnside Street  
Portland, OR 97214  
Fax: (503) 296-5454  
*Attorney for Plaintiffs HRVRC &  
Mike McCarthy*

**JONATHAN M. RADMACHER,**  
**OSB # 924314**  
McEwen Gisvold LLP  
[jonathanr@mcewengisvold.com](mailto:jonathanr@mcewengisvold.com)  
1100 SW 6th Ave, Suite 1600  
Portland, Oregon 97204  
Tel. (503) 412-3522  
Fax: (503) 243-2687  
*Attorney for Plaintiff Mt. Hood  
Meadows*

**LISA KNIGHT DAVIES,**  
**OSB # 03356**  
[lkdavies@gorgelaw.com](mailto:lkdavies@gorgelaw.com)  
Peachey Davies & Myers P.C.  
430 Industrial-PO Box 417  
Hood River, Oregon 97031  
Tel. (541) 386-2221  
Fax: (541) 386-1381  
*Attorney for Plaintiff Hood River  
County*

**STEPHEN MADKOUR,**  
**OSB # 941091**  
[smadkour@clackamas.us](mailto:smadkour@clackamas.us)  
Clackamas County Counsel  
2051 Kaen Road, Suite 460  
Oregon City, Or 97045  
Tel. (503) 655-8362  
Fax: (503) 742-5397  
*Attorney for Plaintiff Clackamas  
County*

**BILLY J. WILLIAMS,**  
**OSB # 901366**  
United States Attorney  
**SEAN E. MARTIN,**  
**OSB # 054338**  
Assistant United States Attorney  
[sean.martin@usdoj.gov](mailto:sean.martin@usdoj.gov)  
Office of the United States  
Attorney  
1000 S.W. Sixth Avenue, Suite 600  
Portland, OR 97204  
Telephone: (503) 727-1010  
Telefax: (503) 727-1117  
*Attorneys for Defendants*

**UNITED STATES DISTRICT COURT**  
**DISTRICT OF OREGON**  
**PORTLAND DIVISION**

HOOD RIVER VALLEY RESIDENTS COMMITTEE, an Oregon non-profit corporation; MIKE MCCARTHY, individually; HOOD RIVER COUNTY by and through the Board of County Commissioners of Hood River County, an Oregon municipal corporation; CLACKAMAS COUNTY, by and through the Board of County Commissioners of Clackamas County, an Oregon municipal corporation, and MT. HOOD MEADOWS OREGON, LLC, an Oregon LLC,

*Plaintiffs,*

v.

GLENN CASAMASSA, Regional Director of Region 6 of the Forest Service; RICHARD PERIMAN, Supervisor, Mt. Hood National Forest; VICKI CHRISTIANSEN, Chief, Forest Service; & UNITED STATES FOREST SERVICE, an Administrative Agency of the U.S. Department of Agriculture,

*Defendants.*

Case No.: 3:15-cv-01397-BR

**THIRTY-FOURTH JOINT  
STATUS REPORT**

In accordance with the order entered on August 24, 2020 (ECF 141), the parties respectfully submit this further joint status report.

**Plaintiff Mt. Hood Meadows Oregon, LLC, and Defendants report as follows (along with these parties' separate statements):**

Since the parties' last Joint Status Report (ECF 140), Mt. Hood Meadows and Defendants continue to work to reach a land exchange agreement pursuant to Section 1206 of the Omnibus Public Land Management Act of 2009, as amended by the Mount Hood Cooper Spur Land Exchange Clarification Act, Pub. L. No. 115-110 (Jan. 10, 2018).

Defendants also report that the U.S. Forest Service expects to publish in January 2021 a Final Environmental Impact Statement and draft Record of Decision under the National Environmental Policy Act ("NEPA") with regard to the land exchange. After these documents are published, individuals and other interested parties will be able to submit administrative objections, which the U.S. Forest Service will consider under the processes and timeframes set forth in its regulations. After the administrative-objection process is complete, the Forest Service plans to publish a final Record of Decision regarding the land exchange.

It is the perspective of Mt. Hood Meadows and Defendants that the continued stay of this action is appropriate, with an eye toward dismissal of this action upon their entering into an exchange agreement. This action was

brought because of an alleged failure to act or undue delay by the Forest Service, but Defendants at this point are working cooperatively with Mt. Hood Meadows and are doing as much as possible within their control to complete a land exchange agreement with Mt. Hood Meadows without further delay and to complete the appropriate NEPA review.

As an alternative to further stay, Defendants for their part would support dismissal of this case now, provided it is stipulated to be without fees or costs to any party. Thrive counsel states it is agreeable to such a dismissal. Such a dismissal would be appropriate, in Defendants' view, given factors including that this Court has questioned whether it has subject-matter jurisdiction over this action and that no party has prevailed on the merits of any of the claims alleged.

Mt. Hood Meadows further states as follows: HRVRC (aka Thrive) has announced its intention to fight if it doesn't like the exchange agreement reached by Meadows and the USFS. [[www.thrivehoodriver.org/mt-hood-land-trade-update](http://www.thrivehoodriver.org/mt-hood-land-trade-update)]. Given that this pending lawsuit was brought by HRVRC in order to force completion of the land exchange between Meadows and the USFS, Meadows would oppose dismissal of the case prior to completion of the exchange, and believes that the next JSR should be made to the court in three months.

**Plaintiffs Hood River Valley Residents Committee and Mike McCarthy report as follows:**

Plaintiffs Thrive (formerly Hood River Valley Residents Committee) and Mike McCarthy respectfully submit that this case be dismissed. Thrive and Mr. McCarthy initiated this case in the first instance but do not intend to pursue this case further. This case has run its course, and no longer presents a live case or controversy. Thrive and Mr. McCarthy submit there is no cause to further stay this matter as there is no basis for reactivating the case. Therefore, there is no reason to delay the dismissal of this case, and maintaining the case is wasting this court's and the parties' resources. Thrive and Mr. McCarthy request that the court dismiss this matter without prejudice and without costs or fees to any party. Thrive and Mr. McCarthy are prepared to submit whatever the court requires to effectuate this request.

Thrive disagrees with the statement presented by Mt. Hood Meadows regarding Thrive's intentions and purpose of this case. Meadows is not authorized to speak for Thrive or make representations on its behalf. The Forest Service is moving ahead to finalize a land trade based on appraisals prepared by Richard Malloy. Thrive's expert has reviewed these appraisals and identified significant and substantial flaws that, if addressed, would more than make up for the gap in values. While the approach to equalization is unclear, Meadows has indicated its interest in keep significant land and

business operations on the North side while also obtaining all the developable land on the South side. As a result, based on the appraisals Meadows is getting far more than 100% of what was contemplated by Thrive and the members of the Cooper Spur Wild & Free Coalition, while Thrive is getting far less than it contemplated plus Thrive faces continued uncertainty over Meadows potential future development of the land it will retain on the North side of Mt. Hood. Thrive has provided details about the errors its experts have identified in the appraisals to the United States Forest Service, and asked the Forest Service to address them.

The present case involved a claim that the Forest Service had unlawfully delayed completing the trade. The Forest Service has been steadily moving forward, and Thrive sees that it is moving ahead. Once the FEIS is completed, Record of Decision is issued, and administrative process is completed, Thrive may or may not challenge the Forest Service's decision on the land trade. Thrive has not heard that the Forest Service will address the deficiencies in the appraisals, however, it still might do so. Thrive has not made a decision as to whether it will or will not challenge the trade. Any future case would involve different claims and, furthermore, it is unlikely that either Clackamas County or Hood River County would be named in any potential future case.

**Plaintiff Hood River County reports as follows:**

Plaintiff Hood River County supports dismissal of this action, per the report of Plaintiffs Thrive (Hood River Valley Residents Committee) and Mike McCarthy.

**Plaintiff Clackamas County reports as follows:**

Plaintiff Clackamas County joins the report of Plaintiffs Thrive (Hood River Valley Residents Committee) and Mike McCarthy with regard to the dismissal.

Jointly and respectfully submitted this 8<sup>th</sup> day of December, 2020.

**FOR PLAINTIFFS:**

s/ Ralph O. Bloemers  
Ralph O. Bloemers, OSB # 984172  
*For Plaintiffs HRVRC & Mike McCarthy*

s/ Jonathan M. Radmacher  
Jonathan M. Radmacher, OSB # 924314  
*For Plaintiff Mt. Hood Meadows Oregon, LLC*

s/ Lisa Knight Davies  
Lisa Knight Davies, OSB# 03356  
*For Plaintiff Hood River County*

s/ Stephen L. Madkour  
Stephen L. Madkour, OSB# 941091  
*For Plaintiff Clackamas County*

**FOR DEFENDANTS:**

BILLY J. WILLIAMS, OSB # 901366  
United States Attorney

s/ Sean E. Martin  
Sean E. Martin, OSB # 054338  
Assistant United States Attorney  
*For Defendants*